

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

WALTER F. BERG
MARY PAULINE BENEDICT

Claim No. CU-7182

Decision No. CU 5363

Under the International Claims Settlement
Act of 1949, as amended

Represented by Cia. Azucarera Atlantica del Golfo

Counsel for Cia. Azucarera Atlantica del Golfo:

Dewey, Ballantine, Bushby, Palmer & Wood - By William C. Bush, Esq.

PROPOSED DECISION

Claimant, WALTER F. BERG, who owned a stock interest in the Cia. Azucarera Atlantica del Golfo, asserts a claim under Title V of the International Claims Settlement Act of 1949, as amended, against the Government of Cuba because of its nationalization of said Company.

In our decision entitled the Claim of Helen M. Drye (Claim No. CU-0807 which we incorporate herein by reference), we held that the properties owned by the Company were nationalized or otherwise taken by the Government of Cuba on August 6, 1960, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per share of \$34.056.

On the basis of evidence in the record in the instant case, the Commission finds that claimant WALTER F. BERG comes within the terms of the Drye decision; that he was an American national at the requisite times; that he has been the owner of 100 shares of stock in the Cia. Azucarera Atlantica del Golfo since prior to August 6, 1960; and that he suffered a loss in the amount of \$3,405.60 within the meaning of Title V of the Act. Further, the Commission finds that the amount of loss sustained shall be increased by interest

thereon at the rate¹ of 6% per annum from August 6, 1960, the date of loss, to the date on which provisions are made for the settlement thereof. (See Drye, supra.)

Section 507 of the Act provides, as to assignment of claims, that

(b) The amount determined to be due on any claim of an assignee who acquires the same by purchase shall not exceed (or, in the case of any such acquisition subsequent to the date of the determination, shall not be deemed to have exceeded) the amount of the actual consideration paid by such assignee, or in case of successive assignments of a claim by any assignee.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claim was also asserted for 100 shares which claimant WALTER F. BERG stated were transferred to his daughter MARY PAULINE BENEDICT at no cost. A certificate in her name for 100 shares issued January 13, 1967 was submitted.

By Commission letter of January 8, 1969, claimant was advised as to the type of evidence proper for submission to establish the claim of MARY PAULINE BENEDICT under the Act.

On October 13, 1969, WALTER F. BERG was invited to submit the suggested evidence within 45 days from that date, and was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. Another reminder was sent on February 9, 1970. No evidence has since been submitted.

The Commission finds that claimant MARY PAULINE BENEDICT has not met the burden of proof in that she has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba from a national of the United States. Thus, the Commission is constrained to deny so much of the claim as was asserted for MARY PAULINE BENEDICT.

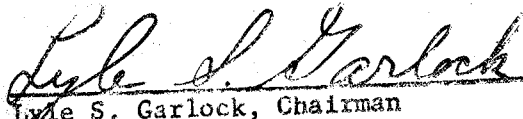
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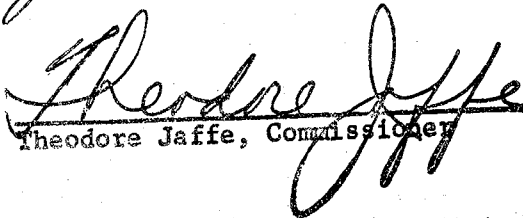
CERTIFICATION OF LOSS

The Commission certifies that WALTER F. BERG suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in amount of Three Thousand Four Hundred Five Dollars and Sixty Cents (\$3,405.60) with interest at 6% per annum from August 6, 1960 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

OCT 7 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)

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